

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

THERMO FINNIGAN LLC,

Plaintiff and  
Counterclaim Defendant,

$$V_r$$

APPLERA CORPORATION,

Defendant and  
Counterclaim Plaintiff.

Civil Action No.: 04-1505-GMS

**JOINT MOTION TO AMEND SCHEDULING ORDER**

Thermo Finnigan, LLC (“Thermo”) and Applera Corporation (“Applera”) hereby jointly move the Court for an Amended Scheduling Order to govern the proceedings going forward. The Stipulated Amended Scheduling Order is being filed concurrently herewith. In support of their Motion, Thermo and Applera state as follows:

1. On April 27, 2005, the Court held a Rule 16.2(b) conference to address scheduling matters in the above-captioned action as well as in Consolidated Civil Action Nos. 04-1230 (GMS) and 05-110 (GMS) (the “Consolidated Action”).

2. At the Rule 16.2(b) conference, the parties requested that the trial date in the above-captioned action be delayed so that the Consolidated Action could be completed prior to this action.

3. Accordingly, the above-captioned action was set for trial beginning March 19, 2007. Because of this delayed trial schedule, the current Scheduling Order allows for 7 months between the conclusion of summary judgment briefing, if permitted, and trial.

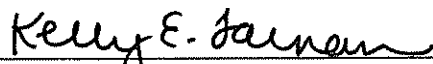
4. The parties have been engaged in discovery but have encountered difficulty due to witness scheduling and witness unavailability. Thermo and Applera are, therefore, requesting that the Court modify the current Scheduling Order (D.I. 21) by extending all remaining deadlines.

5. In the new proposed schedule, summary judgment briefing, if permitted, would be completed on November 21, 2006, 4 months before the beginning of trial.

6. In addition to entering the dates on the Stipulated Amended Scheduling Order, Thermo and Applera request that the Court provide revised dates for the status conference on summary judgment and the status conference on Daubert issues.

7. Counsel for Thermo and Applera are available at the Court's convenience if the Court would like to discuss the proposed revised schedule.

WHEREFORE, Thermo and Applera respectfully request that this Court enter the Stipulated Amended Scheduling Order filed concurrently herewith.

  
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